

[Discussion] The DAO needs a serious discussion about legal structure

[legal](#) , [regulation](#) , [taxes](#)

[PaperImperium](#) #1 October 5, 2021, 5:29pm

I think we need to bring this conversation to the forefront of our thoughts. MakerDAO currently has no legal structure registered in any jurisdiction, notwithstanding the dissolving Maker Foundation and the Dai Foundation.

In the US, we are almost certainly likely to be classified as a general partnership, which we urgently need an answer for. There are efforts underway to create a new legal carve-out in the United States in the next month or two, but my hopes of this happening are less than 50%. **If there is not appropriate language inserted into the “reconciliation” legislative process being considered in the US Congress, I suspect we will not see the required legal relief until it will be too late for Maker.**

For those who are unfamiliar, a general partnership is the default organization of a for-profit, unregistered entity. This means that any individual member of that organization can be held to account for any other member for (among other things):

- Legal liability
- Tax burden
- Business obligations

We have previously discussed **liability to DAO members**, and begun to brainstorm ways to [mitigate that exposure](#). It remains to be seen if there is a way to fully reduce this risk to sane levels. Just as our gymnastics with RWA have been ponderous and imperfect, I do not think we should hold out hope for a *complete* solution here. But we have some of our most knowledgeable minds working on it.

Given the amount of money involved, it seems only a matter of time before claims (spurious or legitimate) are brought to members of this and other DAOs. Note that the only reason the Maker Foundation was able to move litigation from BT into arbitration was due to user agreements. *To my knowledge, we no longer have those user agreements in place*, and is the most instantaneous way we can at least lower our risk. Someone please make my week by telling me I am wrong, and new users are somehow subject to an agreement.

Honestly, **regulatory enforcement actions are likely to be the least of our worries for shared liability**. Though on that front, I am hearing more and more ominous whispers about 2022 being a very litigious year for crypto. I have no special information about which protocols and companies that might impact the most.

On the topic of **taxes**, US history has many examples of a single member of a general partnership being forced to pay the entire tax burden of their partners. Given the current political climate in the US, desire to increase spending, and growing worry over how to pay for that, I cannot foresee Maker – which pays taxes exactly nowhere – escaping notice, perhaps in multiple jurisdictions at once. Note that the final, late deadline for last year’s tax filings in the US is about to pass in less than two weeks.

I do not know what the variation in these exposures is in other jurisdictions like the EU, UK, LATAM, and others. But in the US, the current level of exposure to legal and tax liability is off the charts due to the size, complexity, and sheer number of members in MakerDAO.

This trajectory needs to change. We need to find solutions to these problems *as soon as possible*, and not simply to manage our own risk. If we want to do business with highly regulated institutions, they will need to be assured that we are compliant with all applicable laws. Some solutions – like a legal wrapper for MakerDAO in some globally recognized jurisdiction – would even allow for our RWA program, which is supposed to be the next engine of growth to 100x Maker, to scale much faster and safer than is possible now. There are compelling business reasons to solve these issues, and do so decisively.

In theory, anyone holding MKR could be exposed to these risks. One can imagine a number of other connections to Maker outside of holding the tokens that could also expose an individual.

As a closing message, anyone who has not already done so may wish to limit their interactions with this and all other DAOs to be within a limited liability entity in their preferred jurisdiction. In most countries, there are simple, easy versions to set up. I conduct all DAO business through an incorporated entity, and also hold MKR tokens within an incorporated entity to limit risk. I cannot and will not give legal advice, but consider doing something similar for yourself.

Please leave your thoughts and suggestions below. This has needed urgent attention for quite a while, and we need to get in front of this.

16 Likes

[DAO article for Currency.com](#)

[Forum at a Glance September 30th - October 7th](#)

[MIP39c2-SP23: Adding the Deco Fixed Rate Core Unit](#)

[iammeeoh](#) #2 October 5, 2021, 6:51pm

PaperImperium:

Please leave your thoughts and suggestions below. This has needed urgent attention for quite a while, and we need to get in front of this.

While I might not necessarily wish the same type of developments you want, I agree 100% that this discussion is needed.

The MakerDao community is made both of decentralisation purists, which would be happy with just ETH as collateral, and more business oriented people which would love to see MakerDAO incorporated as much as possible.

In light of the recent post of [@rune](#) , where he envisages a situation in 1 year where we can embark billions of corporate bonds, support RWA green activities, etc, I think it's mandatory to make it clear what this will imply on the legal fronts (in USA, EU, and other main areas).

People should be well-informed **now** on what direction MakerDAO is going to take in the **next year** or so even if not all details are available today.

2 Likes

[PaperImperium](#) #3 October 5, 2021, 7:12pm

iammeeoh:

billions of corporate bonds, support RWA green activities, etc, I think it's mandatory to make it clear what this will imply on the legal fronts (in USA, EU, and other main areas).

Correct. High-quality, highly regulated counterparties are going to be few and far between if they think we are not in compliance.

1 Like

[flipflopflapdelegate](#) #4 October 5, 2021, 7:30pm

[@PaperImperium](#) this is a good listen on how Guidance from Regulators (SEC, CFTC, IRS, Etc.) can benefit Decentralized Finance (there's even a mention of the SocGen MIP6 application at 35:35)

1 Like

[flipflopflapdelegate](#) #5 October 5, 2021, 7:41pm

BTW if you rewind that 👉 interview to minute 23 – you'll get an idea of how even a Compliant company like COINBASE has been tirelessly asking to be Regulated (even bought 3 BDs to date) yet the SEC has been stalling since 2019... and then you wonder why some say crypto companies don't want to cooperate when in fact we are ALL waiting for guidance & direction.

1 Like

[PaperImperium](#) #6 October 5, 2021, 7:46pm

flipflopflapdelegate:

Compliant company like COINBASE has been tirelessly asking to be Regulated (even bought 3 BDs to date) yet the SEC has been stalling since 2019...

Coinbase is NOT very compliant. They have handled their situation poorly.

Securities laws are also probably less problematic than taxes/liability. At least for Maker.

[flipflopflapdelegate](#) #7 October 5, 2021, 9:03pm

Good news Sir!

<https://www.bloomberg.com/news/articles/2021-10-05/sec-chief-signals-crypto-ban-like-china-s-won-t-happen-in-u-s>

SEC Chief Says the U.S. Won't Ban Cryptocurrencies

[SebVentures](#) #8 October 5, 2021, 9:08pm

Link to a 1 year ago discussion:

[\[Discussion\] Legal structures of MakerDAO](#)

Working on real world asset you quickly find yourself with legal contracts and KYC. Currently, MakerDAO and most DAO are dodging the issue. We have ways to continue to dodge it with RWA (by using [Maker representatives](#) for instance). We don't have a legal team yet, but that shouldn't stop us from thinking. In my understanding a DAO is a [general partnership](#) where MIPs and MKR tokens are the agreement and this forum a proof of existence. Each country has its own legal framework and "is a DAO a le...

Regarding RWA, I think you can have a legal wrapper for that and it can be somewhat decentralized.

What we don't have is how to solve taxes. I think I alluded somewhere how a Cayman Foundation (orphaned) could issue MKR as securities that somewhat can be used governing the protocol as well. If you funnel MakerDAO

benefit to this entity, they might pay dividends to MKR holders (as it's security). You get limited liability. If the legal entity fails, you just start from square one, the contract itself is immutable and not controlled by the entity.

2 Likes

[PaperImperium](#) #9 October 5, 2021, 9:16pm

SebVentures:

I think I alluded somewhere how a Cayman Foundation (orphaned) could issue MKR as securities

Aren't we literally dissolving a Cayman-based foundation right now?

Given that Gensler expressly said today he's going after DEXs, I'm unsure what level of censorship resistance decentralization to the point of no entity gets us.

SebVentures:

What we don't have is how to solve taxes

I wonder what the market value of that 84k MKR was? And what jurisdiction we can reasonably use to avoid a tax bomb should an aggressive government choose to make it one.

[flipflopflapdelegate](#) #10 October 5, 2021, 9:52pm

PaperImperium:

Given that Gensler expressly said today he's going after DEXs,

I can't seem to find a direct quote, or statement from Gensler via media outlets stating such, or are you referring to:

"Even in decentralized platforms – so-called DeFi platforms – there is a centralized protocol. And though they don't take custody in the same way [as centralized exchanges], I think those are the places that we can get the maximum amount of public policy."

[PaperImperium](#) #11 October 5, 2021, 10:12pm

Still waiting on transcripts. But yes. Remember that he thinks DEXs determine transaction fees in high-volume market conditions (aka high gas)

Anyway, I'm sure you saw the [a16z post about efforts they're making with the Senate Banking Committee?](#) There's always a chance the laws or regs change in our favor I suppose.

[seth](#) #12 October 6, 2021, 12:27am

I agree and have already shared thoughts about a first step elsewhere so I'll link to it here:

[Self Insurance Fund](#)

We need to come up with a way to facilitate discussions around legal/regulatory topics before we make too many concrete decisions. As others have pointed out, in the context of law, there's a fine line between explaining why you think something's a good idea and giving others the information they need to make it look like you've done something bad, whether you've actually done anything bad or not. Setting time aside for legal concerns as we experiment with different formats for the mandated act...

3 Likes

[bauhaus](#) #13 October 6, 2021, 8:31pm

Here's an early proposal I wrote up for the Bankless DAO. I'm only familiar with US Tax laws but this could probably be setup in a similar format in any jurisdiction such as Switzerland or New Zealand.
Good luck.

[Proposal for Bankless DAO legal entity](#)

Proposal For Bankless DAO Legal Entity
Authors: @Bauhaus
Date: Summary I have been thinking about the legal identity of the Bankless DAO for some time now. I know there have been several discussions regarding this very topic within the Legal Guild....

8 Likes

[PaperImperium](#) #14 October 6, 2021, 9:36pm

bauhaus:

Here's an early proposal I wrote up for the Bankless DAO.

The first half is a very good summary of the *why* and the most common options in a US jurisdiction. I recommend people peruse it (the second half is more specific to Bankless' needs).

I think we need to quickly get this discussion going, because each day potentially leaves members exposed.

If you have educated opinions about jurisdictions based on tax regimes and law, please chime in!

If you have educated opinions about legal vehicle structure (including how to maintain the primacy of the MKR tokens regardless of equity structure), please chime in!

This is an urgent issue where inaction has potentially catastrophic downsides, and action has the potential to allow Maker to more efficiently operate in RWA, fixed income, and anything else not on-chain.

In particular, if we are interested in an ambitious new direction for MakerDAO, then we will need a firm foundation to interact with counterparties, shield our workforce from ruinous financial risk, and have definitive answers to claims of taxable burden.

4 Likes

[iammeeoh](#) #15 October 7, 2021, 8:27am

PaperImperium:

This is an urgent issue

I think the discussion in forums/decentralised communities moves faster if there are some concrete proposals to discuss.

2 Likes

[wouter](#) #16 October 7, 2021, 9:36am

Agreed with [@PaperImperium](#) that we need to step up our legal strategy efforts. The discussion is obviously heating up in the US and I'm not going to speculate with hypotheses here, but, for me there is one important thing we should keep in mind when considering these matters:

Any path that leads to legal AML/KYC requirements on the Dai token itself, should be a non-starter.

The Dai token is of course fully permissionless and cannot be changed in its current form. But it's not unthinkable that the wrong strategic choices on the legal front could lead to a future where the current ERC20 token, under legal pressure, is decoupled from the core protocol and a new, permissioned version is deployed.

If that happens, we should just trigger emergency shutdown, call Dai a failed experiment and give up. Free and borderless transactions with Dai, accessible to the unbanked, high inflation economies, etc. is the core of our value proposition. Any taxation and even liability considerations should be secondary to that.

In a world where CBDCs will be the official legal tender and every individual value transaction will be up for scrutiny by law enforcement, Dai has to be the free alternative or it should not exist. Because the digital age makes absolute surveillance an option, this will become an issue as important as free speech.

The other thing I'll say is that panic is rarely a good adviser. If individual DAO members (MKR holders) feel personally uncomfortable with legal risk, maybe we should consider constructions that can put their participation as MKR voters on hold while the storm is raging, avoiding them to quit altogether. In times of panic, at time-out can be very helpful.

One way could be to deposit MKR tokens in a contract that locks them up and makes the retrieval dependent on the outcome of the US legal situation, putting a substantial risk of forfeiture in place that would remove any tax obligations. In case of forfeiture, another form of compensation can be considered. Or the forfeiture condition could be completely unrelated to the legal outcome, linked instead to some performance metric of the protocol. The Sagittarius engine proposal has similarities to this. (I just made these mechanisms up as thought experiments so don't take my word for it, but I want to illustrate the direction in which we can think here.)

14 Likes

[Grant Announcement: KYC/AML Compliance Research](#)

[swakya](#) #17 October 7, 2021, 9:53am

wouter:

If that happens, we should just trigger emergency shutdown, call Dai a failed experiment and give up.

More specifically there would be two coexisting systems and people will gather around the one they want to work on/with. I think it's pretty clear which one will gather more energy, talent and enthusiasm.

[PaperImperium](#) #18 October 7, 2021, 10:23am

wouter:

Any path that leads to legal AML/KYC requirements on the Dai token itself, should be a non-starter.

Not a lawyer, but generally that means we have to find a way to not be regulated by this list:

Federal Functional Regulator - §1010.100(r)(1) The Board of Governors of the Federal Reserve System;

(2) The Office of the Comptroller of the Currency;

(3) The Board of Directors of the Federal Deposit Insurance Corporation;

(4) The Office of Thrift Supervision;

(5) The National Credit Union Administration;

(6) The Securities and Exchange Commission; or

(7) The Commodity Futures Trading Commission.

Or avoid being any one of the following:

(2)“[financial institution](#)” means—

(A)

an insured bank (as defined in section 3(h) of the [Federal Deposit Insurance Act](#) ([12 U.S.C. 1813\(h\)](#)));

(B)

a commercial bank or trust company;

(C)

a private banker;

(D)

an agency or branch of a foreign bank in the [United States](#);

(E)

any credit union;

(F)

a thrift institution;

(G)

a broker or dealer registered with the Securities and Exchange Commission under the [Securities Exchange Act of 1934](#) ([15 U.S.C. 78a](#)et seq.);

(H)

a broker or dealer in securities or commodities;

(I)

an investment banker or investment company;

(J)

a currency exchange, or a business engaged in the exchange of currency, funds, or value that substitutes for currency or funds;

(K)

an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(L)

an operator of a credit card system;

(M)

an insurance company;

(N)

a dealer in precious metals, stones, or jewels;

(O)

a pawnbroker;

(P)

a loan or finance company;

(Q)

a travel agency;

(R)

a licensed sender of money or any other [person](#) who engages as a business in the transmission of currency, funds, or value that substitutes for currency, including any [person](#) who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional [financial institutions](#) system;

(S)

a telegraph company;

(T)

a business engaged in vehicle sales, including automobile, airplane, and boat sales;

(U)

[persons](#) involved in real estate closings and settlements;

(V)

the United States Postal Service;

(W)

an agency of the [United States](#) Government or of a State or local government carrying out a duty or power of a business described in this paragraph;

(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 which—

(i)

is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii)

is an Indian gaming operation conducted under or pursuant to the [Indian Gaming Regulatory Act](#) other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);

(Y)

any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(Z)

any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

I don't know how realistic that is. But it's surely not impossible, if we are willing to curtail or alter some of our business activities. Some of which may be unexpected — like will BTC's status as foreign currency put us in one of these buckets.

Unfortunately, it's not easy to get more than casual opinions on that until we have an actual legal entity that can hire legal professionals.

3 Likes

[iammeeoh](#) #19 October 7, 2021, 10:48am

wouter:

The other thing I'll say is that panic is rarely a good adviser. If individual DAO members (MKR holders) feel personally uncomfortable with legal risk, maybe we should consider constructions that can put their

participation as MKR voters on hold while the storm is raging, avoiding them to quit altogether.

I think this is a great post. I 100% agree with the ideas.

Even if the US goes crazy with its legislation, we don't necessarily need to change to core values of MakerDAO. The USA is not the only country in the world. **DAI (not Maker) should be 100% decentralised.**

As [@rune](#) said in a recent interview with Grayscale: MakerDAO kind of decouples bitcoin into two parts:

1. DAI, which is a **decentralised** (as Bitcoin, in an ideal world) asset, but stable
2. MKR, which is the speculative asset.

2 Likes

[wouter](#) #20 October 7, 2021, 10:50am

wouter:

The forfeiture condition could be completely unrelated to the legal outcome, linked instead to some performance metric of the protocol.

How about this construction for shielding US MKR holders:

- It's possible to lock up your MKR in a contract which removes your voting power.
- You get it back after a set period of time, **on the condition that emergency shutdown hasn't been triggered** in the meantime.
- You receive a small interest rate for the opportunity cost.
- The lock-up period is automatically extended at the end of the term with a new term, unless you explicitly indicate that you want to withdraw at the end of the current term.
- The contract is 100% permissionless.
- If your MKR is in the contract, you're covered by the self-insurance fund.

Emergency shutdown is a credible risk of forfeiture. And if ES is triggered, any MKR holders fate is up to the social contract anyway so you don't lose much.

I think this should remove any taxation obligations due to the forfeiture condition, and the liability risk because it removes voting power (control).

This is a simple contract to develop and could be deployed in a matter of weeks.

Only the interest rate and the self-insurance fund features require permission from Maker governance. Anyone could develop and deploy their own version without those features today to get started.

(Don't put all your MKR in a contract you developed in a day.)

2 Likes

[PaperImperium](#) #21 October 7, 2021, 12:12pm

wouter:

How about this construction for shielding US MKR holders:

Our major problem isn't securities regulators. We have cash for fines and even a draconian enforcement action then tells us what we need to remedy.

Our problem is mainly that of liability and taxation. Maker in the US will almost assuredly be seen as a general partnership. I have yet to hear a lawyer say It would not be.

That leaves all members on the hook for any perceived damages, taxation, and possibly criminal activity. I'm not sure about you, but I don't think anyone here has the money to pay the IRS if they decide that Maker is a US entity and decide to treat as income the \$400+ million batch of tokens provided by the Foundation. My understanding is the only way around this is simply that Maker itself meet any claimed obligations. If we wanted to dispute them, that would also be best handled at the level of any supposed general partnership — otherwise you have partners cutting deals to avoid being left holding the bag .

So we need a shield around all our members — not only those who live in or have seizable assets in the US. We also need to definitively establish jurisdiction for Maker to live in so we don't suddenly find not just the US, but multiple countries claiming Maker owes taxes on the same income.

Nothing about this says the protocol itself has to change. Or our internal governance processes. Or even whether DAI is decentralized, as the GC at dydx kindly reminded us that simple filings of required paperwork don't count as managerial efforts.

But the first level of compliance is paying taxes — preferably in a single jurisdiction we choose now and not half a dozen that decide they can pick on a stateless DAO.

And the first level of protecting our members and workforce is to have an entity that can stand between them and authorities/civil courts.

We can figure out whether and how to do less basic stuff once we know what laws do/do not apply to Maker — much of which will be affected by jurisdiction and domicile.

1 Like

[rune](#) #22 October 7, 2021, 12:50pm

Overall I think it's a very important discussion to have, and in particular focusing on tax both reactively in the US (as they are looking to do a tax crackdown on crypto) and proactively in the rest of the world. The way to peacefully coexist with governments is to pay some sort of tax on the economic activity done within their borders (e.g. stability fees from real world assets).

So we need a shield around all our members — not only those who live in or have seizable assets in the US.

This simply isn't possible. There's no way to force someone to join such a group, and there is also no way for such a group to control Maker Governance. However, I do think, as Wouter also suggested above, that it makes sense for Maker to dedicate resources and make a commitment to proactively protect MKR holders in the US who may otherwise get spooked and dump their tokens, or quit their jobs in Core Units.

3 Likes

[jacek](#) #23 October 7, 2021, 1:08pm

MakerDAO does need a serious discussion about legal structure. I fully agree with this statement.

Also, I do recognize that some of the risks which are being mentioned are real.

That said, some of the presumptions made seem at best premature. Some examples:

PaperImperium:

We also need to definitively establish jurisdiction for Maker to live in

Strongly disagree here. As soon as we do that, we would put ourselves at the mercy of such a country. Consider a scenario in which they ban stablecoins in the future.

PaperImperium:

Nothing about this says the protocol itself has to change.

Well, not sure at all. Such a key decision would have profound consequences for all aspects of MakerDAO.

PaperImperium:

So we need a shield around all our members

First of all, I am not quite sure if all MKR holders would actually describe themselves as “members” of the DAO. I am even less sure if all MKR holders would be actually interested in becoming involved in any new legal structure.

PaperImperium:

I don't think anyone here has the money to pay the IRS if they decide that Maker is a US entity and decide to treat as income the \$400+ million batch of tokens provided by the Foundation.

If we accept the bold claim that MakerDAO was a US-based "general partnership" at the time of receiving MKR treasury, how would a potential conversion to a legal entity protect us now? I don't want to discuss this matter here, just using this question as some caution that we should look for well-thought solutions which actually solve problems.

Let's try not to throw the baby out with the bathwater. I like Wouter's idea because it provides some immediate relief for concerned MKR holders, while allows us to not make rushed decisions.

I appreciate [@PaperImperium](#) 's push for bringing up this topic, and I actually think that this is one of the greatest challenges for MakerDAO. If we do not get it right, Maker can fall. If we do get it right, that would be a huge competitive advantage. Let's exit the panic mode and focus on solutions.

14 Likes

[PaperImperium](#) #24 October 7, 2021, 1:27pm

jacek:

As soon as we do that, we would put ourselves at the mercy of such a country. Consider a scenario in which they ban stablecoins in the future.

This is certainly a major concern. Which is why if we chose to do this we would need to shop carefully for a favorable jurisdiction.

What is the alternative, though? Being stateless means there is no system of tax treaties to prevent many nations pursuing us at once. Paying taxes in a recognized jurisdiction would — if done correctly — prevent a dog pile of other jurisdictions claiming us as their own and demanding we prove otherwise.

Open to suggestions, but most nations are becoming more aggressive in capturing tax revenue. Maker will not go unnoticed and has few methods of defending against accusations that its revenue is derived in some unfavorable tax jurisdiction

1 Like

[jacek](#) #25 October 7, 2021, 1:41pm

My current thinking (and I think that you would agree) is that any hostile tax / regulatory action against Maker would need to be directed against some of the individuals / entities engaged in MakerDAO (in other words, some individual elements of the decentralized structure around the Maker Protocol).

If that is the case, the natural and likely non-controversial next step would be to find some immediate relief for such exposed individuals. On the legal and regulatory side, this is the goal of the [Self-Insurance Fund](#). On the tax side, Wouter's smart contract-based solution seems like a step in good direction.

For more long-term solutions, including having some form of a legal entity in place, I would think about what's the best structure to analyze and discuss.

8 Likes

[AstronautThis](#) #26 October 7, 2021, 1:54pm

Is there a country in the world right now with clear regulatory laws around entities like MakerDAO? If not, this seems to be a battle against, as Dick Cheney put it, unknown unknowns.

I'm all for aiming for a competitive advantage in the face of new regulations and to de-risk the DAO's future as much as possible but I'm not sure if there's anything concrete we can do with the regulatory clarity we have right now.

As for the US specific comments, it appears that the US government doesn't know how to regulate this space but is intent on making noise about it. This is leading to panic decisions by other protocols, such as lynch and dydx who are now asking you to sign that you aren't in the US if you want to use their platform. That might make sense once there is regulatory clarity - right now, it's not!

2 Likes

[Tosh9.0](#) #27 October 7, 2021, 1:55pm

PaperImperium:

That leaves all members on the hook for any perceived damages, taxation, and possibly criminal activity. I'm not sure about you, but I don't think anyone here has the money to pay the IRS if they decide that Maker is a US entity and decide to treat as income the \$400+ million batch of tokens provided by the Foundation.

How is that income? The Foundation just gave the community back its tokens. Last time I checked, you give something to someone and they give it back, you don't consider that income.

Agree with Jacek that there are a lot of assumptions (looking ever more panicked) running through this thread, including that simply "re-centralizing" this disparate group of individuals and companies currently under no

common control is a magic wand to cure our supposed ills. And note, trying to incorporate the DAO WILL put a great number of people, at least the CUs, under common control, I believe.

8 Likes

[iammeeoh](#) #28 October 7, 2021, 2:06pm

Tosh9.0:

How is that income? The Foundation just gave the community back its tokens. Last time I checked, you give something to someone and they give it back, you don't consider that income.

yeah, in any case we could just burn those token and forget about them as in *"thanks, gift not appreciated and thrown to the bin"*.

If needed, we just mint them back. (LOL)

So, yeah, I don't really see how anybody could consider that as income.

4 Likes

[PaperImperium](#) #29 October 7, 2021, 2:18pm

Tosh9.0:

How is that income? The Foundation just gave the community back its tokens. Last time I checked, you give something to someone and they give it back, you don't consider that income.

Not saying it is. But we should view these things from the perspective of those who would make the claims. Characterizing them as a loan from the DAO to the Foundation strikes me as a good retort.

1 Like

[wouter](#) #30 October 7, 2021, 5:04pm

Thanks everyone for participating. We'll continue our research as [@SES-Core-Unit](#) exploring the 3 topics here:

- The self-insurance fund
- Legal structuring for the DAO

- A smart contract as legal shield for MKR holders

Anyone who's interested into discussing these with us, feel free to reach out.

13 Likes

[NikKunkel](#) #31 October 12, 2021, 7:24am

I'm very skeptical of any attempt to create a legal entity that represents 'Maker'. In particular when the justification for doing so relies on broad assumptions. We've just undertaken a tremendous amount of effort to shut down the Foundation and break up into decentralized Core Units. Any moves in this direction should not be rushed in a panic and instead need to be carefully scrutinized from every angle.

Frankly, I don't think we community members, nor Core Unit contributors, are remotely qualified to speak on the credible threats to the DAO, its members, and the potential legal constructs that might mitigate those risks. Apologies if this comes across as insensitive, but I find it quite irresponsible how people in this thread are using arm-chair lawyer legal interpretations and media sound-bites to justify action. Any brash action could jeopardize years of carefully constructed legal positioning. This reinforces the need for one or more Legal Core Units who have the expertise to navigate through such complex issues.

23 Likes

[MIP39c2-SP23: Adding the Deco Fixed Rate Core Unit](#)

[PaperImperium](#) #32 October 26, 2021, 8:44pm

Here is a proposed structure for DAOs from a16z. [Linked here](#) for further discussion.

5 Likes

[Whitescroll](#) #33 November 20, 2021, 1:31pm

TLTR: I'm writing a research paper about DAO's and how they could be established in Liechtenstein and need mentorship for ideas and advisory regarding MakerDAO & DAO's in general.

Hi all together

As this is my first post ever in the forum I'm not quite sure if this is the right manner (even though [@discobot](#) was a great mentor).

I read this [article](#) as part of my ongoing research project just a few days ago and stumbled into Maker.

Let me introduce myself briefly. Currently I am in my final year of my undergraduate study program. During my studies I got deeper into crypto and developed a keen interest for the field of legal studies. Especially the field where crypto and the off-chain world meet is a bloody battlefield of legal challenges and fascinating to explore.

As I wrote earlier, I just started writing my bachelors thesis. The topic of my research is the question: **What makes a DAO and is it possible for a DAO to gain the legal status of a legal entity in Liechtenstein?**

Why exactly Liechtenstein you might ask?

First I'm studying and working in Liechtenstein. But especially regarding crypto Liechtenstein is one of the most forward pushing jurisdictions in the whole world as you might know already.

Back in 2019 Liechtenstein introduced the token and trusted service provider act. A law made for blockchain and crypto. If you want to learn more here is a [comprehensive summary](#).

My current structure is split. First, I really want to present what a DAO is. To show really the core ideas and motivation (decentralisation, liberty, independence, innovation...) why do DAO's exist.

The second half will be a detailed analysis if the current law in Liechtenstein allows for a DAO without restricting fundamental ideas and motivation.

If the answer is yes, I will propose a framework how to establish a DAO within the jurisdiction of Liechtenstein.

If the answer is no, I'll put together a catalogue of suggestion for both the legislation, where law must be altered, or new laws have to be implemented to allow for a truly decentralised autonomous organization. And, for DAO's to better fit into the current corporate law of Liechtenstein (without restricting itself beyond the cause).

I would love to use MakerDAO as my example to better explain the how and what of DAO's. And present my findings to the community. You would get a scientific researched and conducted legal analysis if MakerDAO could exist in Liechtenstein. I cannot give you a direct legal opinion as e.g., a corporate lawyer but maybe test the jurisdiction of Liechtenstein in the eyes of MakerDAO.

Because I'm relatively new to the whole crypto space and of course the DAO communities I would need some mentorship, members who are willing to answer question about DAO's, history of MakerDAO, structure... furthermore guide me into the right directions where I can find more literature or things I could check for more ideas. In short give me guidance and navigation along the way.

I would really like to contribute to the cause of MakerDAO.

If you read until here, please feel free to share your opinion about it and connect me to people who might be interested.

I hope this thread is rightfully placed and [@discobot](#) bot will not sentence me.

4 Likes

[discobot](#) #34 November 20, 2021, 1:31pm

Hi! To find out what I can do, say `@discobot display help`.

[psychonaut](#) #35 November 20, 2021, 4:47pm

Whitescroll:

members who are willing to answer question about DAO's, history of MakerDAO, structure... furthermore guide me into the right directions where I can find more literature or things I could check for more ideas.

You are welcome to ask here or <https://chat.makerdao.com>

1 Like

[Tosh9.0](#) #36 November 20, 2021, 5:49pm

Fire away with questions and we'll provide some thoughts. Thanks for thinking of Maker for your academic project.

2 Likes

[Whitescroll](#) #37 November 22, 2021, 7:37am

Thank you, just found about the discord sometime later and after soem intitial confusion I made it. 👍

2 Likes

[layerzero](#) #38 November 22, 2021, 12:40pm

Thank you [@Whitescroll](#) for your interest! Indeed, the discussion about legal structures of DAOs is very important and complex, so it has be be framed appropriately. For me, finding the “perfect” legal wrapper for a DAO makes little sense, as DAOs (digital, transnational, decentralized, fluid) and legal entities (paper based, national, centralized, rigid) are inherently contradictory. Submitting a DAO to a particular jurisdiction would defeat its purpose. However, finding appropriate legal structures at the periphery of the DAO that wrap specific functions,

product features or specific Core Units (which could be considered as mini DAOs) makes a lot of sense, specially for mitigating liability and tax risk. We are looking at structures like US Unincorporated Non Profit Associations ([@SES-Core-Unit](#) will host in December a public call with Miles Jennings GC from a16z who recently proposed this structure), Delaware series LL.Cs, Cayman Foundations, Swiss Associations (Verein) and other hybrid structures (Wyoming's DAO LL.C., Open Law's Ricardian LL.Cs .) each valuable for specific use cases. Happy to provide feedback on your research about applicability of Lichtenstein entities in the context of MakerDAO.

5 Likes

[Whitescroll](#) #39 November 22, 2021, 1:35pm

Hi [@layerzero](#) thank you very much for your offer. Your point about the fact that DAO's might be too different to be put in the context of souverain national law is something to think about. But with what I am learning about the DAO e.g., "Case for clean money" DAO's will need a way to interact easier in the off-chain world, so at some point some kind of legal structure is needed.

But this is exactly why I build this two-sided approach. I do not want to put a DAO into the bag of some countries legislature but want to explain to people why this would and in your own words: "defeat the purpose".

And I prepared myself already for the very certain possibility that a DAO like Maker cannot exist in the legislature of Liechtenstein.

At least this is what I keep telling myself 😊

Another circumstance which at least from my understanding makes the whole topic quite interesting is what is "most important" and what is not making "a big difference" with regard to e.g., location of the DAO, liability of members, statues, tax implementations.

Do you think I should make my own thread where I post updates, ask for input & more. Because right now I think it collides a little bit with the general topic of this thread.

[0xdeniz](#) #40 November 24, 2021, 11:41am

Welcome [@Whitescroll](#) ! Although I don't have a legal background or knowledge on that subject, I am quite familiar with the crypto space, the concept of a DAO and MakerDAO's story. I'd be happy to help you out in any way 😊 How about we hop on a call this week to get you started and stay in touch on Discord from that point onward? Let me know whether that would help.

layerzero:

We are looking at structures like US Unincorporated Non Profit Associations ([@SES-Core-Unit](#) will host in

December a public call with Miles Jennings GC from a16z who recently proposed this structure),

Also [@layerzero](#) ; really looking forward to this 🙌

1 Like

[mlphresearch](#) #41 May 16, 2022, 2:21pm

What's the current status of these efforts? Has the DAO published any material around this discussion after this thread got quiet in November last year? Thanks!

3 Likes

[wouter](#) #42 May 18, 2022, 8:33pm

On the self-insurance fund, a lot of progress has been made and we'll have a significant update in a couple of weeks. If you're interested in anything particular, you can reach out to [@layerzero](#) who has been working on this.

On the legal structuring of the DAO there have been multiple conversations but this always boils down to case-by-case analyses. This is an ongoing discussion which requires a more specific question if you want any concrete answers. What is the specific goal of the legal structure? In which jurisdictions are the people who are involved? SES has mostly been working with Core Units to connect them to outside council to advise them on specific questions.

The MKR lockup contract to remove voting control is a quite simple concept and it's a matter of writing up an implementation. If there's a concrete need for it, we'd probably be able to have it done through a grant. Happy to discuss this further if it's of interest.

6 Likes

[mlphresearch](#) #43 May 19, 2022, 12:45pm

Makes sense. I don't have a more specific question at the moment. I know that other DAOs are working through similar issues, so I was just curious. Thank you for such a quick response!

1 Like

[MIP55c3-SP5: Interim Chief Legal Officer](#)

[layerzero](#) #44 May 19, 2022, 1:46pm

Hi [@mlphresearch](#) thank you for reaching out. SES hired an international risk management company / insurance broker (Artex / Gallagher) for executing a feasibility study for the Self Insurance Fund. This study will analyze our overall risk exposure and will determine, among other things, the appropriate size to the fund, risks to be covered and recommendation on the legal vehicle. The study will be executed in the course of the next 3 months, but we will update the community in the next weeks as we receive the most important deliverables.

2 Likes